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09/401,939	09/23/1999	MICHAEL C. SCOGGIE	CAT/29US-SCROCO	5333
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NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			EXAMINER JANVIER, JEAN D	
			ART UNIT 3688	PAPER NUMBER
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte SCROGGIE, MICHAEL C., et al

Appeal 2008-004478
Application 09/401,939
Technology Center 3600

Mailed: June 11, 2010

DECISION ON PETITION

This is a decision on Appellants' "37 CFR 41.3/1.183 Petition," filed May 20, 2010 ("Petition"). The Petition requests:

[T]he Director to instruct the panel to make of record that portion of the American Heritage Dictionary of the English Language (4th ed. 2000), allegedly defining "personal computer" as "a computer built around a microprocessor for use by an individual." Petition, p. 2.

The Petition is directed to a matter pending before the Board of Patent Appeals and Interferences ("Board") and will be treated as a petition under 37 C.F.R. § 41.3(b).

FINDINGS

1. On May 4, 2010, a panel of the Board entered a Decision on Appeal affirming and reversing rejections by the Examiner.

2. In the Decision on Appeal, the panel cited and relied upon the following definition of “personal computer”:

The ordinary and customary meaning of “personal computer” is a computer built around a microprocessor for use by an individual. citing the *American Heritage Dictionary of the English Language* (4th ed. 2000). Decision, p. 6.

3. On May 14, 2010, Appellants filed a Request for Rehearing of the Decision on Appeal arguing, *inter alia*, that the definition of “personal computer” relied upon by the panel is incomplete and inaccurate. Request for Rehearing, pp. 5-7.

4. By the present Petition, Appellants seek to require the panel to: make of record that portion of the American Heritage Dictionary of the English Language (4th ed. 2000), allegedly defining “personal computer” as “a computer built around a microprocessor for use by an individual” (Petition, p. 2)

because:

appellants have reason to belief (sic) that the definition of “personal computer” [cited in the Decision on Appeal] is a truncated version of the actual dictionary definition from which it was purportedly taken. (Petition, p. 3).

5. Appellants further argue that:

Granting the decision is clearly in the interests of justice because, as shown in the request for rehearing[, the] narrow dictionary definition

of “personal computer,” if applied to construe the claims involved in the appeal, would have resulted in reversal of all rejections of record. Petition, p. 4.

6. Appellants explain why they filed both the Request for Rehearing and the present Petition, as follows:


The appellants’ request for rehearing identifies and requests the panel to provide the necessary evidence. However, as providing evidence is a procedural matter, the undersigned files this petition as well, for that relief. Petition, p. 3.

DISCUSSION

The Petition raises an issue (the propriety of a dictionary definition) relating to a proceeding (Request for Rehearing) that will be assigned to and decided by a panel of Administrative Patent Judges. The authority to resolve such issue properly resides with the Judges on that panel.

DECISION

In view of the foregoing, the Petition is DISMISSED as an issue not properly before the Chief Administrative Patent Judge under 37 C.F.R. § 41.3.



Michael R. Fleming
Chief Administrative Patent Judge

Appeal 2008-004478
Application 09/401,939

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